

**CONTRACT #15**  
**RFS # N/A**

**Tennessee Board of Regents**  
**University of Memphis**

**VENDOR:**  
**City of Memphis**  
**Liberty Bowl Memorial**  
**Stadium**



## Tennessee Board of Regents

1415 Murfreesboro Road - Suite 350 - Nashville, Tennessee 37217-2833  
(615) 366-4400 FAX (615) 366-4464 www.tbr.edu

February 13, 2007

Ms. Leni S. Chick  
Fiscal Analyst  
Rachel Jackson Building, 8<sup>th</sup> Floor  
Nashville, TN 37243

RECEIVED

FEB 14 2007

FISCAL REVIEW

Dear Ms. Chick:

Enclosed please find a two year Agreement between the University of Memphis and the City of Memphis for the use of the Liberty Bowl Memorial Stadium to play all regular season home football games. Please note the term of this Agreement began August 31, 2006 and that delay in submittal is due to negotiations with the City of Memphis.

Per Fiscal Review's request to see non-competitive agreements, this contract must be approved by the Committee. The University of Memphis would also like to request blanket approval for use of the stadium in subsequent years. **Please contact me regarding the date this will go before the Fiscal Review Committee and I will inform the representatives to insure they are present for the meeting in which the contract will be discussed.** If you have any questions, please do not hesitate to contact me at 366-4436.

Information regarding the contract may be sent to my attention at the Tennessee Board of Regents, 1415 Murfreesboro Road, Suite 350, Nashville, Tennessee 37217.

Sincerely,

Angela A. Gregory  
Director of Purchasing and Contracts

cc: Charles Manning  
Bob Adams  
William Mueller, UOM

Austin Peay State University • East Tennessee State University • Middle Tennessee State University • Tennessee State University  
Tennessee Tech University • University of Memphis • Chattanooga State Technical Community College  
Cleveland State Community College • Columbia State Community College • Dyersburg State Community College  
Jackson State Community College • Motlow State Community College • Pellissippi State Technical Community College  
Roane State Community College • Southwest Tennessee Community College • Volunteer State Community College  
Walters State Community College • Nashville State Technical Community College • Northeast State Technical Community College  
The Tennessee Technology Centers

# CONTRACT SUMMARY SHEET

021408

RFS	Contract

State Agency	State Agency Division
THE UNIV. OF MEMPHIS	TBR

Contract Name	Contract ID (FEIN or SSN)
THE CITY OF MEMPHIS	C- or V- 62-600036

Service Description
USE OF LIBERTY BOWL MEMORIAL STADIUM FOR HOME FOOTBALL GAMES

Contract BEGIN Date	Contract END Date	Subrecipient or Vendor?	CFDA#
8-31-2006	12-31-2007	VENDOR	

Mat. Eval. TRUE/Statement	Contractor is on STARS	Contractor's Form W-9 is on file in Accounts

Allocation Code	Cost Center	Object Code	Fund	Funding Grant Code	Funding Subgrant Code
481100		74611	112000		

	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2006	390,000.00				\$ 390,000.00
2007	390,000.00				\$ 390,000.00
					\$ -
					\$ -
					\$ -
					\$ -
TOTAL	\$ 780,000.00	\$ -	\$ -	\$ -	\$ 780,000.00

COMPLETE FOR AMENDMENTS ONLY	State Agency Fiscal Contact & Telephone #
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Base Contract	THIS Amendment (ONLY)	(901) 678-3832 - DAVID ZETTERBREN
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State Agency Budget Officer Approval
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Funding information and documentation requires to be submitted to the designated authority (e.g., the State Agency) within the designated time period (e.g., 30 days) of the date of the award. If the designated authority is not the State Agency, the designated authority must be identified in the contract.
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TOTAL	\$ -	\$ -
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Contract Selection Method	Contract Selection Method
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African American	Person w/ Disability	Hispanic	Small Business	<input checked="" type="checkbox"/> NOT disadvantaged
Asian	Female	Native American	OTHER minority/disadvantaged—	

Contract Selection Method	Contract Selection Method
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<input checked="" type="checkbox"/> RFP	<input checked="" type="checkbox"/> Competitive Negotiation	<input type="checkbox"/> Alternative Competitive Method
<input checked="" type="checkbox"/> Non-Competitive Negotiation	<input checked="" type="checkbox"/> Negotiation w/ Government (eg, ID, GG, GU)	<input type="checkbox"/> Other

Contract Selection Method	Contract Selection Method
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PLEASE SEE RESPONSES TO SECTIONS 17 + 18 ON REQUEST: NON-COMPETITIVE CONTRACT

## REQUEST: NON-COMPETITIVE CONTRACT

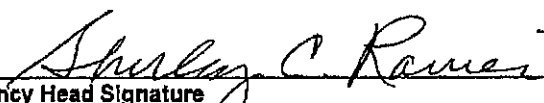
APPROVED

Commissioner of Finance &amp; Administration

Date:

Each of the request items below indicates specific information that must be individually detailed or addressed as required. A request can not be considered if information provided is incomplete, non-responsive, or does not clearly address each of the requirements individually as required.

1) RFS #	
2) State Agency Name:	THE UNIVERSITY OF MEMPHIS
3) Service Caption:	
4) Proposed Contractor:	THE CITY OF MEMPHIS
5) Contract Start Date: (attached explanation required if date is < 60 days after F&A receipt)	AUGUST 31, 2006
6) Contract End Date IF <u>all</u> Options to Extend the Contract are Exercised:	DECEMBER 31, 2007
7) Total Maximum Cost IF <u>all</u> Options to Extend the Contract are Exercised:	\$ 780,000.00
8) Approval Criteria: (select one)	<input type="checkbox"/> use of Non-Competitive Negotiation is in the best interest of the state <input checked="" type="checkbox"/> only one uniquely qualified service provider able to provide the service
9) Description of Service to be Acquired:	USE OF LIBERTY BOWL MEMORIAL STADIUM FOR HOME FOOTBALL GAMES.
10) Explanation of the Need for or Requirement Placed on the Procuring Agency to Acquire the Service:	THE UNIV. OF MEMPHIS FOOTBALL TEAM NEEDS A FACILITY IN WHICH TO COMPETE AGAINST OTHER CONFERENCE USA TEAMS.
11) Explanation of Whether the Procuring Agency Bought the Service in the Past, & if so, What Procurement Method It Used:	YES, THE UNIV. OF MEMPHIS HAS USED THE SAME VENDOR SINCE 1965. NON-COMPETITIVE METHOD
12) Name & Address of the Proposed Contractor's Principal Owner(s): (not required if proposed contractor is a state education institution)	THE CITY OF MEMPHIS, DIV. OF PARK SERVICES, 2599 AVERY AVENUE MEMPHIS, TN 38112-4897
13) Evidence of the Proposed Contractor's Experience and Length of Experience Providing the Service:	THE UNIV. OF MEMPHIS HAS PLAYED ALL HOME GAMES IN LIBERTY BOWL
14) Documentation of Office for Information Resources Endorsement: (required <u>only</u> if the subject service involves information technology)	MEMORIAL STADIUM SINCE 1965.

select one:	<input checked="" type="checkbox"/> Documentation Not Applicable to this Request	<input type="checkbox"/> Documentation Attached to this Request
15) Documentation of Department of Personnel Endorsement : (required <u>only</u> if the subject service involves training for state employees)		
select one:	<input checked="" type="checkbox"/> Documentation Not Applicable to this Request	<input type="checkbox"/> Documentation Attached to this Request
16) Documentation of State Architect Endorsement : (required <u>only</u> if the subject service involves construction or real property related services)		
select one:	<input checked="" type="checkbox"/> Documentation Not Applicable to this Request	<input type="checkbox"/> Documentation Attached to this Request
17) Description of Procuring Agency Efforts to Identify Reasonable, Competitive, Procurement Alternatives :		
NO OTHER FACILITY IN THE MEMPHIS AREA IN WHICH TO PLAY COLLEGE FOOTBALL GAMES + SEAT ANTICIPATED FANS.		
18) Justification of Why the State Should Use Non-Competitive Negotiation Rather Than a Competitive Process : (Being the "only known" or "best" service provider to perform the service as desired will not be deemed adequate justification.)		
NO OTHER FACILITY IN THE MEMPHIS AREA IN WHICH TO PLAY COLLEGE FOOTBALL GAMES + SEAT ANTICIPATED FANS.		
REQUESTING AGENCY HEAD SIGNATURE & DATE : ( <u>must</u> be signed & dated by the <u>ACTUAL</u> procuring agency head as detailed on the Signature Certification on file with OCR— signature by an authorized signatory will be accepted only in documented exigent circumstances)		
<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;">             Agency Head Signature         </div> <div style="width: 45%;"> <div style="text-align: right;">1/25/07</div> <div style="text-align: right;">Date</div> </div> </div>		

Approved

Charles W. Manning  
Chancellor

Date

2/13/07

**LEASE AGREEMENT BY AND BETWEEN  
CITY OF MEMPHIS  
AND  
UNIVERSITY OF MEMPHIS**

**THIS AGREEMENT**, entered into this 8<sup>th</sup> day of September, 2006, by and between the City of Memphis, a duly incorporated municipal corporation, hereinafter referred to as "City," and the University of Memphis, Memphis, Tennessee, 38152, hereinafter referred to as "University."

**WITNESSETH:**

**WHEREAS**, "City" at all necessary times owns and operates a Stadium and Parking Area in Memphis, Tennessee, being more particularly described as Liberty Bowl Memorial Stadium; and

**WHEREAS**, the "University" is an institution of higher learning located in Memphis, Tennessee that desires to conduct its home football games at Liberty Bowl Memorial Stadium; and

**WHEREAS**, "City" and "University" desire to enter into an Agreement specifying the terms and conditions under which "University" will use the Stadium and Parking Area for home football games.

**NOW, THEREFORE**, in consideration of the mutual covenants, conditions, and promises, herein contained, "City" and "University" agree as follows:

**SECTION 1 - TERM**

The initial term of this Agreement shall be for a period of two (2) complete football seasons with an effective date of August 31, 2006 (the "Commencement Date") and expiring, unless sooner terminated, at the close of business on December 31, 2007, (the "Term"), or such other time period as may be mutually agreed by the parties.

**SECTION 2 - RIGHT TO USE PREMISES**

A. Use of Stadium for Home Games. During the term of this Agreement, "University" agrees to play all regular season home football games during each college football season at Liberty Bowl Memorial Stadium.

B. Use of Stadium for Scrimmages and/or Intra-squad Games. Subject to the

provisions of this Agreement, "University" shall have the right to conduct scrimmages, the Spring Game, FanFest, Intra-squad games at Liberty Bowl Memorial Stadium. "University" agrees to reimburse "City" for all actual additional costs beyond those normally incurred for every day stadium operations, with no markups for opening and operating the Stadium for such use. "City" reserves the right to approve date and time of the event with such approval not to be unreasonably withheld.

C. Use of Stadium on Each Game Day. Subject to the provisions of this agreement the "University" shall have access to and right to use the Stadium on each Game Day.

D. Game Day Entertainment. Subject to the provisions of this Agreement, "University" shall have the right to provide, or permit others to provide, at the sole cost and expense of the "University", pre-game, half-time and post-game entertainment in connection with such games; provided, however, that "University" shall notify the "City" of the nature of such entertainment at least five (5) days prior to the date of each such Game and such entertainment shall be subject to the approval of the City with such approval not to be unreasonably withheld.

E. Use of Stadium on Day Prior to Day of Game. In connection with the use of the Stadium on each Game Day, it is understood that both participating teams shall each have the right to use the Stadium for a walk-through for one (1) hour on the day prior to the Game Day. "University" reserves the right to select the time for the walk-through and provide City forty-eight (48) hours notice of said time. In no event, shall the walk-through occur at night without "University" reimbursing the City for all actual costs and expenses of night operations.

F. Game Day Activities. On each Game Day, and such additional times as may be requested by "University" and approved by the "City" (such approval not to be unreasonably withheld), "University" shall have the right to use the Stadium (which includes the area immediately surrounding the stadium) and the Parking Area for the installation of equipment and other preparation activities including, without limitation, temporary chairback seating within the Stadium, advertising signs, etc. and hospitality and/or sponsor tents and access and parking for television and radio production vehicles. All such requests must be submitted in writing on Monday-prior to the event. University shall be responsible for the cost to repair any and all damage resulting from installation and removal of equipment.

G. Reservation of Available Regular Season Games Dates and Conference USA Championship Game Date. The "University" shall have the exclusive right and license to use the Stadium and the Parking Area to conduct Home Games on such dates during the term of this Agreement as the "University" may reserve, and to reserve same for use by Conference USA for a conference championship game, in the event

such game is held in Memphis. On or before one hundred and twenty (120) days immediately preceding any season during the term of this Agreement, the "University" shall notify the City in writing of the Regular Season Game Dates and Conference USA Championship Game Date during the ensuing calendar year on which the "University" intends to conduct such games and the "City" shall reserve the Stadium for the exclusive use of the "University" for such purpose on each such scheduled date except for those game dates previously reserved by Summitt Management Corporation on Appendix A.

H. Schedule Changes. In the event the "University" desires to change the date reserved by the "University" for the conduct of any regular season Game, including any such change made to accommodate a television broadcast of such Game, the "University" shall have the exclusive right and license to use the Stadium and the Parking Area to conduct such Game on the date to which such Game is to be changed unless the City has previously reserved the Stadium and the Parking Area on such date. In the event the date reserved by the "University" for the conduct of any Game is changed pursuant to this paragraph, then subject to the provisions of the immediately preceding sentence, the "City" shall have no duty to continue to reserve the Stadium and the Parking Area for the exclusive use of the "University" on the date previously reserved.

I. Ancillary Uses. In addition to those uses contained in this Agreement, "University" may use the Stadium (which includes the area immediately surrounding the stadium) and Parking Area before, during and after Games (on Game Days), for the following ancillary-type events and uses: stage events on field and in parking areas; tailgate parties in parking area and other hospitality events; pre-game, half-time and post-game events; sponsor representation and presence; and pyrotechnics. In no event shall the City be responsible for any additional cost associated with an approved ancillary event. Approval by the City for such events shall not be unreasonably withheld.

### **SECTION 3 - CITY OF MEMPHIS OBLIGATIONS**

A. City of Memphis to Furnish Stadium. On each Game Day, the City shall furnish and make available to "University" the stadium fully equipped, operating and staffed for a football game. The City's obligation hereunder is to provide: (i) the playing field and surrounding areas with proper line markings and numbers required for a collegiate football field (ii) goal posts in position, (iii) reasonably effective stadium signs, (iv) field benches, (v) such training rooms and locker rooms as shall exist in the stadium, (vi) complete and effective lighting system, which is in good working order (vii) public address and loud speaker systems, (viii) phone hook-up from each bench on field to respective coaches in the Press Box, (ix) adequate hookups for radio and television equipment as customarily provided at Liberty Bowl Stadium, (x) event staff that includes



security, ticket takers and ushers, (xi)the complete use of all scoreboards and video boards, and (xii)all other special equipment and facilities usually provided for the performance and exhibition of football games at Liberty Bowl Memorial Stadium.

It is understood that the field and end zones designs as mutually determined, shall identify the "University," and shall include the University's logo, if desired by the University. It is additionally understood that the field and end zone designs shall be for the entire season. The University shall bear all expenses for field decorations, other than normal lining and end zone decorations.

B. City of Memphis to Furnish Parking Area. On each Game Day, the City shall furnish and make available for the use of spectators the parking area. All privileged parking in the portion of the Parking Area adjoining the Stadium and Armory shall be identified and marked by the City. The University shall be entitled to print and distribute by August 1 of each year parking passes for the following areas:

- (1) five hundred nineteen (519) parking passes in the Armory Parking Lots immediately adjacent to and north of the Stadium; The handicap spaces in the Armory Lot will be reserved for use by City.
- (2) one hundred seven (107) media parking passes in the Media Lot adjacent to the south of the Stadium;
- (3) three hundred fifty-five (355) parking spaces for Lot A
- (4) one hundred and twelve (112) parking spaces for Lot B;
- (5) all stadium interior parking spaces; including four (4) reserve spaces on the south side of the press box elevator. By August 1 of each year, the City shall provide a list of approximately 25 employees with a legitimate job-related need to park within this area, which shall include the Mayor and his senior staff. The University shall provide the agreed-upon list with parking privileges within this area, and shall issue passes to be used by these individuals for parking privileges.
- (6) thirty-five (35) parking spaces in Lot C;
- (7) twenty (20) parking spaces in Lot D;
- (8) Twelve hundred (1,200) parking spots, if available, will be assigned to "University" to attempt to sell in the pre-season to season ticket holders and other University sponsors. Such parking spots shall be offered for sale at FIVE AND NO /100 DOLLARS (\$5.00) if in the

general parking section, and at TEN AND NO / 100 DOLLARS (\$10.00), for each parking spot sold per game in the premium area. On or before one hundred and twenty (120) days immediately preceding any season during the term of this agreement, the City will notify University of the charge for the parking spaces provided for in this paragraph. In no event will the cost for the parking spots designated herein exceed the sum of ten dollars (\$10.00)/spot over the life of this contract. Payment for said parking actually sold will be due to the City no later than sixty (60) days after first schedule game.

All parking listed in item (1) through (8) shall be provided at no additional charge to "University." The City shall provide a parking schematic which shall be attached hereto as Appendix B. The City expressly agrees not to print parking passes for any University events at Liberty Bowl Memorial Stadium, the printing of such passes instead to be the responsibility of the University. The University shall provide to the City a manifest of the number of parking passes issued per parking area.

C. Game Day Parking Revenue Sharing. Subject to the terms and conditions of this agreement, the "City" agrees that the "University" shall receive thirty five percent (35%) of Net Parking Revenue generated from the sale of fairground parking on game day and paid season ticket holder parking at "University" home football games.

D. Student and Band Seating. "University" shall notify the City of their seasonal preference for student and band seating, at the beginning of the season. The "City" will rope these areas off prior to each game. Any individual game seating changes shall be communicated by the University to the City in the weekly pre-game meeting.

#### **SECTION 4 - RENT AND OTHER EXPENSES**

A. Base Rent. "University" agrees to pay to the "City" as base rental for services listed herein for each of said games (regular season and Conference USA Championship Game) played at the Stadium a flat rate of thirty-five thousand dollars (\$35,000.00). Rent and all other fees and expenses are due and owing no later than thirty (30) days after the last Home Game.

B. Suite License. "University" shall have an Exclusive License to market, sell and retain all revenue generated from the sale of thirty-one (twelve-seat) suites and seven (sixteen-seat) suites designated by "City" during "University" home football games. If for any single football game all thirty-eight suites are sold or are otherwise used by the University or its vendors for University-related business, "University" shall pay "City" the sum of seven thousand, five hundred dollars (\$7500).

C. Ancillary Expenses. The "University" shall be responsible for cost of footballs used for the game, two (2) ambulance standby service for spectators, concession items ordered by the "University" to be provided in the Press Box, Levels 2, 3 and 4 designated for "University" use at cost, on-field chainmen and the officials' fees and expenses. "University" shall also be responsible for expenses incurred for installation and removal of signs for games, except for the installation and removal of signs required by the terms of agreements with other stadium tenants. Any such ancillary expenses will be due thirty (30) days after receipt of invoice.

D. Interest. The "University" agrees that if any sum it is obligated hereunder to pay to the "City" is not paid when due, it will pay the City interest on said sum from the date due until payment is received in an amount equal to the lesser of 1.5 % per month, which is an annual charge of 18 %, or the maximum rate of interest allowed by applicable law. This provision shall only apply to sums that become due after the execution of this contract.

E. Suite Maintenance Obligations. During the term of this agreement "University" shall be responsible for and, at its cost, shall make all repairs to Suites that are damaged or destroyed during "University" home football games. During the term of this agreement, City shall be responsible for, and shall undertake all normal and routine maintenance of Suites.

## **SECTION 5 - SUBJECT TO FUNDING**

This Agreement is subject to annual appropriations of funds by the Memphis City Council. In the event sufficient funds for this Agreement are not appropriated by Memphis City Council for any of its fiscal periods during the term hereof, then this Agreement will be terminated.

The University may terminate this Agreement at the end of any fiscal year (June 30<sup>th</sup>) in the event that sufficient funds are not appropriated by the general assembly and/or budgeted for continuation of the Agreement.

## **SECTION 6- INSURANCE**

A. The City covenants at all times of this Agreement, at its own cost and expense, to carry and maintain insurance against loss or damage of the Premises caused by fire, theft and such other causes of loss as are usually and customarily covered by vandalism and malicious mischief endorsements and by "extended coverage endorsement," including boiler explosion, flood, and earthquake insurance in an amount equal to 90% of the replacement value of the Premises or to make other

arrangements, (including self-insurance) to provide for a repair or a replacement in the event of such loss or damage.

### **SECTION 7- INDEMNITY**

Neither the "City" or "University" shall be responsible for personal injury or property damage or loss, except that resulting from its own negligence or the negligence of its employees or others for whom it is legally responsible. Any act of negligence caused by the "University" as set forth above resulting in claims, suits, actions, liabilities, costs and expenses to all persons including but not limited to guests, patrons, invitees, contractors, officers, agents and employees of the "City", as well as damage to the property of the stadium shall be the legal liability of the "University."

Any and all claims against the State of Tennessee, including the "University" or its employees, for injury, damages, expenses or attorney fees shall be heard and determined by the Tennessee Claims Commission in the manner prescribed by law. To the extent that insurance is not obtained by the "University" its agents or licensees, damages recoverable against the "University" shall be limited expressly to claims paid by the Claims Commission pursuant to T.C.A. section 9-8-301 et seq.

### **SECTION 8- CONCESSIONS**

A. Novelty Concessions. The right to sell and/or distribute "University" Game Programs and novelty concessions, including but not limited to clothing, in the Stadium shall belong exclusively to the "University". "University" exclusive novelty and program sales rights include the Stadium and all Fairground Parking Area (bordered by Southern, Hollywood, Central, and East Parkway) during, as well as immediately before and after, games. No rights fees shall be paid on program or novelty sales. Further, "University" itself or through any "University" sponsor, or designee, shall have the non-exclusive right to cater or provide a sponsor's product for non-public consumption at no additional fee or rental charge in the locker rooms, Stadium Club, Press Box rooms, hospitality areas and suites.

B. Game Day Food Concession Revenue Sharing. The "City" shall maintain and operate vending and concession operations at all "University" home football games in a manner consistent with other college football facilities. The "City" agrees to share with the "University" on an equal basis (50/50 split) all Net Concession Revenue generated at "University" home games above Fifty Thousand Dollars (\$50,000.00) per game.

C. Temporary Chairback Seating Sales. The University shall have the right to market and sell temporary chairback seating on a season and single-game day basis. The University shall retain all revenue received from the sale of such seating on a

season basis.

## **SECTION 9- ADVERTISING**

A. **Stadium Fixed Signage.** At all times during the "University" football games, "University" shall have the sole and exclusive control of all announcements, acknowledgments, promotions, messages, displays, banners, sponsor signs and advertising (collectively "Advertising") on the scoreboard(s) and elsewhere in the Stadium. "University" shall have the right to install panels on the video board during games as defined herein at its sole expense, which may be used for advertising. In addition, the scoreboard will include a "Tigervision" sign, which will only be removed if requested by a representative of the Southern Heritage or Liberty Bowl classic. In no event, shall the "University" display, promote, advertise in any form or manner advertisement that conflict with prior sponsorship agreements between the "City" and Coca-Cola. "University" is responsible for all costs incurred in the erection or removal of signs, banners or advertising, except where the City permits other tenants to remove the University's sign to install a different sign. In those instances, the removal and reinstallation of the University's sponsor's panel, including but not limited to the costs associated with repairing any panels damaged as a result of being removed and re-installed by the Southern Heritage or the Liberty Bowl classic, shall be the responsibility of the City.

B. **Message Center.** The "University" may use the public address system, scoreboard message center and stadium Video Display System, if any, during its Home Games. All advertising to be displayed or announced on message center, stadium Video Display System or public address system shall be coordinated with Stadium management personnel and shall be subject to reasonable approval by the "City" to assure compliance with its policies. "University" shall be responsible for all cost associated with the production of videos displayed on the Video Display System.

C. **Revenue and License Fee.** The "University" shall be entitled to all of the revenue from sponsorships or Advertising solicited by the "University" for display as fixed or temporary signage, all announcements on the message center, Video Display System, or public address system during the Games, and all other sponsorship activities that occur during "University" football games. For the rights and privileges set forth in this section the University agrees to pay to "City" a fee of twenty five thousand dollars (\$25,000.00) per home football game, which license fee shall be reduced to zero once the debt service for the Video Display System is satisfied.

## **SECTION 10- STADIUM CLUB AND TICKETS**

A. **Stadium Club.** The Stadium Club (Level 1 of the Press Box) shall be furnished to "University" for its exclusive use at no additional charge. All seating in

Level 2 of the Press Box (working press) shall be designated by "University". All seating on Level 3 of the Press Box, with the exception of Box 6 and 7 which will be used by "City," shall be used as designated by "University". All booths on Level 4 of the Press Box, except booths 7 which will be used by the City, shall be reserved for use by the University as working areas, i.e., radio, film, scouting, etc., or provided to the visiting team. The "University" will print appropriate season passes for these boxes one month prior to the first game of the season and regulate their use throughout the season.

B. Location and Number of Tickets. The "University" will select the location and number of tickets to be sold on a season ticket basis. The "University" will also select the number and location of tickets to be sold to the general public.

C. Admission Passes. The "City" shall provide a list to the University of all persons to be admitted without a ticket, i.e., working employees and vendors, and the University shall print and distribute credentials for those people who have a legitimate game-related reason to be admitted without charge or without a ticket. The City shall not print any admission passes. The "University" shall also print and distribute passes to its personnel consistent with its policies and procedures. The "City" and "University" agree that only persons having a legitimate game related reason to be admitted without charge or without a ticket will receive passes.

D. Complimentary Tickets. The "University" agrees to provide the City, on or before the beginning of each college football season, fifty (50) complimentary game day tickets to each game for use by the City. Additionally, "University" agrees to provide City with complimentary tickets for all seats in suites reserved for the exclusive use by City.

## **SECTION 11- MEDIA RIGHTS**

The rights and licenses set forth herein relating to Media Rights.

All Media Rights are hereby reserved to, and shall be the property of "University".

A. The "City" shall cooperate fully and coordinate its efforts with media representatives so as to permit such media representatives to fulfill their contractual obligations and duties. At all reasonable times during the term of this Agreement, the "City" shall provide reasonable access to the Stadium to broadcasters designated by "University" for the purpose of broadcasting the Games or "University" Football Events.

B. Subject to the prior approval and inspection of the "City", authorized broadcasters may, without additional charge, install on or in the Stadium, operate, maintain and remove such broadcast and associated production equipment as they may require (including cameras, cables, platforms, announcer booths, sound equipment,

graphic units, microphones, and lighting) and shall have the right to utilize their own employees or employees of their contractors for such activities without being required to utilize or pay any employees, agents or contractors of the "City" in connection with such work; provided that the "City" shall be reimbursed for all reasonable costs and expenses associated with work which it performs at "University's" request in connection therewith.

### **SECTION 12- MUTUAL DEFAULT**

If either party fails to observe or perform any of the provisions of this Agreement and such failure is not cured within thirty (30) days after notice by the other party, then the breaching party shall be in default and without further notice, the other party may at any time thereafter, (i) terminate this Agreement, (ii) continue this Agreement and recover damages resulting from the default; or (iii) effect a cure on the breaching party's behalf, and reasonable costs and expenses so incurred by the other party together with interest at the rate of ten percent (10 0/0) per annum (or such lower rate as may be the highest rate permitted by law) shall be due and payable by the breaching party on demand by the other party.

### **SECTION 13- MISCELLANEOUS**

Each party shall maintain documentation for all charges against the other party under this Agreement. The books, records and documents of the parties, insofar as they relate to this Agreement, shall be maintained in conformity with generally accepted accounting principles for a period of three (3) full years from the date of the final payment, and shall be subject to audit, at the party requesting the audit's expense, at any reasonable time and upon reasonable notice by the requesting party or its duly appointed representatives, or a licensed independent public accountant. It is understood any costs associated with the audit will be the responsibility of the requesting party. In addition, the University shall maintain, and provide to the City, the parking manifest described in Section 3.

The parties agree to comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Executive Order 11,246, the Americans with Disabilities Act of 1990 and the related regulations to each. Each party assures that it will not discriminate against any individual including, but not limited to employees or applicants for jobs based on race, creed, color, sex, age, disability, veteran status or national origin. "University" shall in no event, however, be required to make any improvements to the Stadium in order to cause the Stadium to comply with the Americans with Disabilities Act.

The parties also agree to take affirmative action to ensure that applicants are employed and that employees are treated during the employment without regard to their race, religion, creed, color, sex, age, disability, veteran status or national origin. Such

action shall include, but not limited by, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection available to employees and applicants for employment.

Assignment. Neither party shall assign, transfer, let or sublet, mortgage, pledge or hypothecate this Agreement without the prior written consent of the other, such consent not to be unreasonably withheld.

#### **SECTION 14- NOTICE**

All notices hereunder shall be in writing and shall be deemed to be duly given, upon receipt, if given by personal delivery, nationally recognized overnight courier, certified or registered mail (return receipt requested), postage prepaid, or facsimile transmission to the parties at their respective addresses set forth below, or at such other address or addresses as may be designated by any party by like notice.

If to the City of Memphis:

City of Memphis  
Division of Park Services  
2599 Avery Avenue  
Memphis, Tennessee 38112  
Attention: Director of Park Services

With a copy to: Law Division  
City Attorney's Office  
125 N. Main, Room ~~344~~ 336  
Memphis, Tennessee 38103

If to the University:

University of Memphis  
Memphis, Tennessee 38152  
Attention: R. C. Johnson  
Athletic Director

With a copy to: Sheri Lipman  
University Counsel  
University of Memphis  
Office of Legal Counsel  
201 Administration Building  
Memphis, Tennessee 38152-3370



### **SECTION 15- SEVERABILITY**

If any provision of this Agreement is determined to be illegal by a court of competent jurisdiction, this Agreement shall remain valid as if such provision had not been contained therein unless the omission of such provision materially changes the substance of this Agreement as a whole, in which event, either party may terminate this Agreement upon written notice to the other within thirty (30) days after the determination that the provision is illegal.

### **SECTION 16- FORCE MAJEURE**

If either party shall be unable to perform hereunder as a result of acts of God, war, national disasters, strikes or other work stoppage, fire and other comparable events, or as a result of any lawful order issued by the United States Government or any official of the State of Tennessee, or for any reason beyond the reasonable control of parties (financial inability excluded), then this Agreement shall be suspended during such period and for as long as such conditions shall exist. In the event of such suspensions, the term hereof shall not be extended to take into account the period of such suspension. If the force majeure only affects the "University's" performance, the City shall have the right to use the Stadium for any other purposes during the period of the force majeure. If as a consequence of such force majeure, the Stadium should be destroyed or rendered unfit or unavailable for the purpose of this Agreement, "University" shall have the right to play its Games in any other stadium during the term such conditions continue to exist. Any Fees or other sums incurred by the "University" prior to the suspension of this Agreement due to a force majeure, shall be paid to the City by the "University" when due, but no additional Fees shall be incurred during the suspension period.

### **SECTION 17- INTERPRETATION**

This Agreement is an integrated contract which contains the complete understanding of the parties as to all matters herein. There are no oral or written statements, representations, agreements, understandings or surrounding circumstances which modify, amend or vary, or purport to modify, amend or vary, any of the provisions hereof. All prior and contemporaneous representations, negotiations and agreements are superseded and replaced hereby. All exhibits and schedules referenced herein and attached hereto shall be deemed to have been incorporated herein so as to become a part of this Agreement. This Agreement may be altered, amended or revoked only by an instrument in writing duly executed by all parties hereto. No waiver by either party of any provision hereof, nor the failure of the aggrieved party to seek redress for a violation, shall be considered to be a waiver of such provision or of any subsequent breach thereof. The parties hereto mutually understand and declare that time is of the essence of this Agreement. The provisions for default and/or termination shall operate promptly

upon the expiration of the time limits specified herein. This Agreement shall be interpreted under the laws of the State of Tennessee.

### **SECTION 18- DEFINITIONS**

In addition to other terms which are defined elsewhere in this Agreement, the following terms for purposes of this Agreement, shall have the meanings set forth in this section:

"Complimentary Tickets" shall mean Tickets distributed by the University without charge or the expectation or actual receipt of any money therefore as described in Section 10, Paragraph D.

"Game Day" shall have the meaning set forth herein.

"Games" shall mean college football contests between the University of Memphis and any other college football team.

"Home Games" shall mean those Games during the "University's" regular season schedule for which the Home Team is the host team responsible for procuring the playing site.

"Media Rights" shall mean, with respect to radio, television, Internet or World Wide Web (including by video streaming), audio-visual program transmission or retransmission, satellite, and any and all other communications media, whether presently existing or hereafter developed and regardless of the method of transmission or retransmission, the following (except in the case of clause (c) hereof ) exclusive rights: (a) the broadcasting, transmission, retransmission or other dissemination of all or any part of all Games and all activities related thereto; (b) the broadcasting, transmission, retransmission or other dissemination of Games and by any means of VHF, UHF, Internet, or any other method of transmission, retransmission or other dissemination whether presently existing or hereafter developed (whether broadcast, cable, microwave, satellite, over-the-air, fiber optics or otherwise), of television, audio, visual or other sensory signals, and shall be deemed to include, without limitation, premium and basic television service, cable television, over-the-air pay television, broadcast network, weblet, multipoint and multichannel distribution system television, direct broadcast satellite television, subscription television, pay-per view television, master antenna and satellite master antenna television, low power television, closed circuit television and any other electronic or digital media such as computer distribution or computer on-line application; (c) the non-exclusive, royalty-free license to use name, likeness and historical material of the Stadium solely in connection with the rights enumerated in clauses (a) and (b) hereof; (d) the right (i) to display banners in camera visible and other locations as any broadcaster of Games shall determine, in and around

the stadium and the playing field, advertising such broadcaster, and (ii) unfettered electronic insertion and deletion rights with respect to the broadcast, transmission, retransmission or other dissemination of Games; and (e) subject to any specific provision of this Agreement to the contrary, the right to select and control all production facilities and personnel necessary to exercise the rights enumerated in clauses (a), (b), (c) and (d) hereof. Media Rights shall also include the exclusive right to photographing, filming, television taping, radio broadcasting and recording in analog, digital or other forms or recording, whether presently existing or hereafter developed.

"Net Concessions Revenue" shall mean the positive difference between concession revenues generated as set forth in Section 8 of this Agreement and concession expenses.

"Net Parking Revenue" shall mean the positive difference between parking revenue generated from the sale of fairground parking as set forth in Section 3C of this Agreement and parking expenses.

"Parking Area" shall mean those areas under the control of the City in the fairground adjacent to the Stadium which are designated by The City from time to time for the parking of vehicles during the Games and as further described in Section 3 (B).

"Suites" shall mean a private seating area that requires a special ticket to gain admission.

"Stadium" shall mean with respect to the Liberty Bowl Memorial Stadium, Memphis Tennessee, the playing field, stadium lighting, seats, stairs, walkways, ramps, public restrooms, press box, home and visiting team locker rooms, coaches offices, weight room, equipment room, training room, meeting room, Skyboxes, Suites, and such other areas, if any, as customarily are designated by the City from time to time for use at football games. Stadium lighting shall include if necessary, the installation, replacement, refurbishment and/or the modification of existing lighting to provide the necessary candlepower for a college football game.


"Ticket" shall mean the certificate, license, badge, pass or other indicia by which admission to the Stadium is permitted and controlled.

IN WITNESS WHEREOF, this Agreement has been executed by the Parties hereto by their duly authorized representative:


CITY OF MEMPHIS:

By:   
Willie Herenton  
Mayor

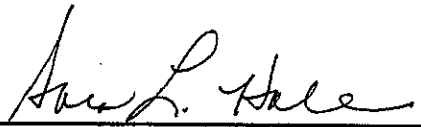
UNIVERSITY OF MEMPHIS:

By:   
Shirley C. Raines  
President

By:   
Cindy Buchanan  
Director of Park Services

By:   
R.C. Johnson  
Athletic Director

Approved as to form:

By:   
Sara Hall, Esq.  
City Attorney *Shirley C. Raines*

Approved:

Tennessee Board of Regents

  
Chancellor Charles Manning

## APPENDIX A

September 16, 2006

September 08, 2007

September 13, 2008

September 12, 2009

September 11, 2010

